



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

**77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590**

SET 1 4 2011

REPLY TO THE ATTENTION OF

SE-5J

PROMPT REPLY NECESSARY

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Mr. Mark D. Erzen, P.C., Trustee
Ninth Avenue Final Remedial Group
321 North Clark Street, Fifth Floor
Chicago, Illinois 60654-4769

Re: Request for Information Pursuant to Section 104 of CERCLA for
U.S. Scrap Site in Chicago Illinois.

Dear Mr. Erzen:

This letter seeks your cooperation in providing information and documents relating to the contamination of the U.S. Scrap Superfund Site in Chicago, Illinois ("Site").

We encourage you to give this matter your immediate attention and request that you provide the documents requested in Enclosure B, by no later than October 19, 2011.

The Site is an abandoned drum recycling facility located at approximately 12301 South South Park Avenue, near 123rd Street and Cottage Grove Avenue, in Chicago, Illinois that was operated by Steve Martell. Mr. Martell also operated at the Ninth Avenue Site. EPA conducted removal actions at the U.S. Scrap Site to address a landfill fire and shock sensitive materials located along a railroad embankment in 1985-1986; prevent off-site contaminant migration; and remove some of the contamination in 2008.

Description of Legal Authority

The federal "Superfund" law (the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601, *et seq.*, commonly referred to as "CERCLA" and "Superfund") gives EPA the authority to, among other things: (1) assess contaminated sites, (2) determine the threats to human health and the environment posed by each site, and (3) clean up those sites in the order of the relative threats posed by each.

US EPA RECORDS CENTER REGION 5



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Information Request

Under Section 104(e)(2) of CERCLA, 42 U.S.C. §9604(e)(2), EPA has broad information gathering authority which allows EPA to require persons to furnish information or documents relating to:

- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.
- (B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.
- (C) Information relating to the ability of a person to pay for or to perform a cleanup.

While EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in Enclosure A, including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information which may assist the Agency in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. §3501 et seq.

Instructions on how to respond to Enclosure B are described in Enclosure A. Your response to this Information Request should be mailed to:

Mila Bensing
U.S. Environmental Protection Agency
Enforcement Services Section 1, SE-5J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

and emailed to:

Maria Gonzalez
maria.gonzalez@epa.gov

If you have additional questions about the history of the Site, the nature of the environmental conditions at the Site, the status of cleanup activities, or specific questions about the Information Request, please contact Ms. Gonzalez, Associate Regional Counsel, at (312) 886-6630.

We appreciate and look forward to your prompt response to this Information Request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sharon Jaffess", followed by a long horizontal flourish line.

Sharon Jaffess, Chief
Enforcement and Compliance Assurance Branch

Enclosures

cc: Lisa Cherup
U.S Department of Justice

Attachment A
Information Request for
Ninth Avenue Final Remedial Group Trustee

Instructions

1. Answer Every Request Completely. A separate response must be made to each document request. For each requests contained in this letter, if information responsive to this Information Request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. Precede each answer with the corresponding number of the question and the subpart to which it responds.
3. Provide the Best Information Available. Provide responses to the best of Respondent's ability.
4. Identify Sources of Answer. For each document request, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
5. Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to Section 104(e) of CERCLA that you supplement your response to EPA.
6. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42.U.S.C. §§9604(e)(7)(E) and (F), and Section 3007(b) of the Resource Conservation and Recovery Act (ARCRA), 42 U.S.C. §6927(b), and 40 C.F.R. §2.203(b).

If you make a claim of confidentiality for any of the information you submit to U.S. EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

1. the portions of the information alleged to be entitled to confidential treatment;
2. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);

3. measures taken by you to guard against the undesired disclosure of the information to others;
4. the extent to which the information has been disclosed to others; and the precautions taken in connection therewith;
5. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
6. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by Section 104(e) of CERCLA. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

7. Disclosure to a Contractor of the United States. Information which you submit in response to this Information Request may be disclosed to authorized representatives of the United States even if you assert that all or part of it is confidential business information. Please be advised that the United States may disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure by no later than October 17, 2011.

8. Personal Privacy Information. Personnel and medical files, and similar files, the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."

9. Objections to Document Requests. If you have objections to some or all the document requests, you are still required to respond to each request.

Definitions

The term "**documents**" includes any written, recorded, computer-generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control, or known by you to exist, including originals, all prior drafts, and all non-identical copies.

ENCLOSURE B
Documents Requested

1. A copy of all documents that the Ninth Avenue Remedial Group received, following Steve Martell's death, relating to Martell's (or any of his companies') operations of the U.S. Scrap Site and/or the Ninth Avenue Site.
2. Any volumetric ranking that was prepared using, at least in part, the documents described in Document Request 1, above.